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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-third session

SUMMARY RECORD OF THE 1283rd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 7 August 1998, at 10 a.m.

Chairman: Mr. ABOUL-NASR

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Twelfth and thirteenth periodic reports of Morocco (CERD/C/298/Add.4; HRI/CORE/1/Add.23) (continued)

1. At the invitation of the Chairman, the members of the Moroccan delegation resumed their places at the Committee table.

2. Mr. BENJELLOUN TOUIMI (Morocco) recalled that members had referred to the lack of demographic information about minority groups in Morocco's reports. Population censuses were designed to collect socio-economic data rather than racial, ethnic or linguistic information. The Moroccan population was such a mixture of different ethnic groups that it was not possible to distinguish the individual groups, geographically or otherwise, and people might not agree with the authorities' classification. There was a danger that distinctions might be created where they had not previously existed. Of course, if discrimination against a certain group of people became a problem, the Moroccan authorities might decide to change its policy.

3. Islam, which was the State religion, advocated tolerance and coexistence and treated people as individuals instead of categorizing them. War propaganda and incitement to hatred on racial, national or religious grounds were forbidden under Moroccan law. No distinction was made between Moroccan citizens on the grounds of their religious convictions, and Moroccans and foreigners alike were free to practise whatever religion they chose.

4. Members had asked about the recent government changes in Morocco. The new Government, formed earlier that year by Mr. El Youssoufi, was a coalition of seven political parties and a number of independents. He would give the new Government's programme to the secretariat for members to consult. One of the ministers, the Minister of the Habous and Islamic Affairs, was appointed by the King, in the latter's capacity as the spiritual leader of the nation. A number of ministers had been kept on from the previous Government. In his opinion, the Minister of Foreign Affairs and the Minister of the Interior had been kept on because of their long experience in the Western Saharan peace process, and the Minister of Justice had been kept on to continue the process of reform of the legal system.

5. Mr. BELMAHI (Morocco), speaking on the reform of the legal system, said that the Government had drawn up a short-term plan of action, to run until the middle of 1999. It was designed, firstly, to improve access to justice, which involved providing advice and assistance to defendants and bringing cases to court more quickly. Secondly, it was designed to improve legal procedures, provide better monitoring of the legal process and motivate judges and other legal personnel to support the reforms. Wide-ranging reforms of the prison system had been introduced. Thirdly, the plan of action was designed to modernize and computerize the courts at both national and local level. The first courts to benefit were the Supreme Court, the Court of Appeal and a major court of first instance in Casablanca. The administrative courts which had been in existence since 1991 had proved most valuable: for example, an

official of the Ministry of Justice had successfully appealed against his unfair dismissal at the administrative court of Rabat. New drafts of the Criminal Code and the Code of Criminal Procedure would shortly be submitted to Parliament.

6. Describing the reform of the prison system, he said that two new prisons were being built, and existing prisons were being upgraded. Efforts were being made to ensure a better quality of life for prisoners, particularly in respect of food and medical care, and to reduce overcrowding. Prisoners were allowed to maintain contacts with their families and with the outside world. Education was provided, from elementary literacy lessons to university-level studies. He would send statistics to the secretariat, which members could consult. Vocational training was provided in fields such as plumbing, sewing and information technology. The prison service had taken over five farms for the purposes of vocational training, of which two were currently in operation. A draft law on the "humanization" of the prison system, shortly to be submitted to Parliament, had been drawn up in conformity with the Standard Minimum Rules for the Treatment of Prisoners. A guide to the Standard Minimum Rules had been produced in easily readable language for the use of prisoners.

7. The training of prison staff was based on Morocco's international human rights commitments. Human rights teaching was provided by the Faculty of Educational Science of the University of Rabat. France and Spain had provided valuable assistance in training prison staff, particularly in health matters.

8. Every effort was made to strengthen prisoners' links with the outside world. Non-governmental organizations (NGOs) were free to visit prisons at any time. In December 1997, the Moroccan Organization for Human Rights had been allowed to carry out its own autopsies on three dead prisoners, in parallel with the official autopsy. The official pathologist had found that all three prisoners had died of natural causes. The pathologist employed by the Moroccan Organization for Human Rights had found that two prisoners had died of natural causes, but that neglect might have played a part in the death of the third. The case had been widely publicized in the Moroccan press.

9. The prison service maintained close links with the Moroccan Bar Association, in order to bring about constant improvements in the prison system. It also had a close relationship with the press. Journalists could visit prisons freely, and their reports were not subject to censorship, providing that the privacy of the prisoners was respected. Swedish and Danish television companies had made programmes about the prison system. A Dutch member of the European Parliament and the Secretary-General of Amnesty International had also visited prisons in Morocco.

10. Mr. BENJELLOUN TOUIMI (Morocco) said that several members had asked about the activities of the Human Rights Advisory Council and its standing with the Government. He had a long report listing the members of the Council and the legislation which it had recommended to the Government, which he would provide to the secretariat.

11. Mr. de Gouttes had asked about the status of the Minister for Human Rights. The Minister had been a minister-delegate, appointed by the Prime Minister, and when he had left the Government, his duties had been

taken over by the Minister of Justice until the elections in early 1988. The new Minister for Human Rights, Mr. Aoujar, was a minister in his own right and a noted human rights activist, and had been the founder of the Moroccan Organization for Human Rights.

12. Mr. BELMAHI (Morocco) said that the functions of the newly separate Ministry of Human Rights were wide-ranging. It reviewed the country's legislation to assess their conformity with the international human rights instruments to which Morocco was a party. It supervised relations with national and international NGOs in the human rights field, under the new Government's policy of openness to such organizations and of involving all elements of civil society in the promotion and protection of human rights; the Government had, for instance, enlisted the help of NGOs in the preparation of its periodic reports to the various treaty bodies, and had recently included a new provision in its limited budget for small subsidies to some of the major NGOs devoted to human rights in general and to the rights of women and of the child in particular. The Ministry also dealt with complaints of human rights violations forwarded to it from all other ministries and from individuals; it did so on a case-by-case basis, often helping complainants to institute court proceedings or directing them to a more appropriate government department, and it continued to monitor the progress of all complaints. Given the huge caseload - anywhere from 12 to 70 complaints were received weekly - it had been decided to establish regional delegations to deal with complaints, starting with three in the north, south and centre of the country, with delegations eventually in all the capitals of the 16 regions.

13. Regarding the harmonization of Moroccan law with international treaties, the Ministry had carefully reviewed the many human rights treaties to which Morocco was a party, including the Convention, and was in the process of going over all the relevant Moroccan legislative and regulatory texts. It had thus far reviewed about 1,600 texts, from 1912 to 1990, and where it had found a lack of conformity it had begun to revise the laws and regulations. The Ministry had chosen national experts who would continue to monitor the conformity of its legislation with the Convention and other international instruments, and would itself monitor the work of the officials responsible for implementing the laws, in order to bring the de facto and de jure situations into line with each other.

14. Mr. BENJELLOUN TOUIMI (Morocco), speaking to the question of the Berbers, said that although Arabic had been made the official language of the country for the sake of social cohesion, the Government recognized the right of the different ethnic groups to their own collective and cultural heritage. The Berbers had been the original population of Morocco, before the Arab invasion, and their language and heritage therefore had pride of place in Morocco. The Berber culture was extremely rich and diversified, consisting as it did of many different ethnic groups in the various areas of the country, each with its own particular traditions and characteristics. The Government would soon be establishing a Centre for Berber Studies and Culture, and in the meantime had set up very active regional Berber and other cultural associations. All the Berber groups had joined in a common effort to devise one Berber language from the many distinct dialects, starting with the problem of the transcription of the language. Perhaps other countries of the Maghreb were more advanced along those lines, but the Moroccan Government, with the

very limited funds available for culture in general, was seeking to support the Berber communities and integrate the wealth of their traditions into the spiritual heritage of the entire country.

15. To respond to a concern expressed by Mrs. Sadiq Ali, he said that the new Finance Law, the text of which had been circulated to members, had made it a priority to ensure a safety net for all the country's ethnic communities, quintupling the allocation in that regard.

16. Mr. BELMAHI (Morocco) said, regarding the dissemination of information about Berbers, that on Moroccan television there were daily news broadcasts in three of the main Berber dialects; and that Berber music, which was as diverse as the languages, was featured prominently on many of the regional radio stations and was the most popular music in the sale of recordings. There were also 11 authorized Berber newspapers and publications, representing all regions.

17. The Ministry of Culture had itself taken a number of steps in that regard: it had drafted a bill for submission to Parliament establishing a Centre for Study and Research in Tamazight, one of the Berber dialects; it planned to open museums of Berber art and culture in the various regions; and it had recently met with all associations active in the field to plan joint action to implement the Government's policy on the promotion of Berber language and culture. Universities in Morocco, of course, had a rich store of research materials on Berber and other languages.

18. Mr. BENJELLOUN TOUIMI (Morocco), underscoring the enormous degree of ethnic intermingling in Morocco, reiterated how difficult it was for the Government to determine the ethnic composition of its population with any accuracy - for instance, an ancient Jewish Berber tribe living in the southern Atlas mountains had been discovered for the first time only in the 1950s. Indeed, it was perhaps not advisable for it to try to undertake a strict ethnic classification of such a mixed population. The Government would naturally, however, adapt its laws to the provisions of the Convention on the matter, to ensure that there was no discrimination against any ethnic group.

19. Regarding education in human rights, he circulated to members of the Committee a document listing and giving a timetable for the many educational activities being planned by the Government. The Centre for the Study of Human Rights which it was planning to establish with the assistance of the United Nations High Commissioner for Human Rights was expected to have a regional impact in the Maghreb. He also drew attention to a provisional document available for reference, giving the Government's short-term programme of action, organized by ministry, indicating what the Administration was doing to further the welfare of its people.

20. The CHAIRMAN, thanking the delegation for its very interesting replies, said that he remained unconvinced, however, by the argument made concerning article 4 of the Convention, an article which had been very clearly drafted and had to be applied. Although the delegation maintained that racial discrimination was not a problem in its society, there was no provision in the Criminal Code for dealing with any crime of racial discrimination committed, for instance, by an alien. Actually, no country in the world could claim

absolutely that it was immune from problems of racial discrimination and human rights violations. He asked the delegation to convey the Committee's strong and unanimous position on the matter and to try to convince the Government to amend the Criminal Code.

21. Mr. RECHETOV asked for an explanation of the term "authorized" used by Mr. Belmahi in respect of Berber newspapers. Did all publications have to be officially authorized, and if so, by whom and in what manner?

22. Mr. YUTZIS asked the delegation to comment on a recent Moroccan law mandating the giving of Arab names to children, and thus presumably prohibiting the use of Berber names, as reported by an international Berber non-governmental organization.

23. Mr. de GOUTTES asked whether the Government planned to expand its publicizing and broad distribution of its own periodic reports and the Committee's concluding observations thereon.

24. Mr. GARVALOV, referring to paragraphs 50 and 54 of the report (CERD/C/298/Add.4), said that, despite the Government's commendable efforts against racial discrimination, it was questionable whether any State could say that it had no problems in that area. Article 4 of the Convention was, in the Committee's understanding, mandatory, and required legislation on the matter, regardless of whether or not racial discrimination occurred. Also, the formulation in paragraph 59 of the report to the effect that the dissemination of ideas based on racial superiority and hatred "may be punishable under law" was very weak, and should state rather that it "shall be punishable".

25. He would welcome more information on the Berbers and whether there was any distinction drawn between them, the Arabs and groups of other ethnic origin in Morocco. Although the delegation claimed that the different races and ethnic groups were now intermingled, it had, in its explanation of the founding of Moroccan society referred variously to the Berbers, the Arabs and others. Perhaps nowadays there was no longer any distinction, but clearly in the past there had been. The Committee had been informed that the Government census was not carried out on the basis of ethnic or racial origin, but according to different criteria. Yet paragraph 52 of the report referred to the special status conferred on the Jewish community. Was that not tantamount to a distinction? Moreover, if groups of different religious denominations were recognized, then why was there no mention of the Christians? Surely there must be more Christians than Jews in Morocco? Even if the latter were foreigners, their rights should also be protected under the Convention.

26. The CHAIRMAN said that, on the basis of his experience of Algeria, there were to his knowledge very few Christians in North Africa, and certainly far more Jews.

27. Mr. BENJELLOUN TOUIMI (Morocco), replying to Mr. Rechetov's question concerning Berber publications, said that the delegation's use of the term "authorized" in its earlier replies was somewhat misleading. In accordance with Moroccan legislation regulating the press, all publications must be

officially registered. That procedure applied to publications in all languages, including the Berber language. There was no censorship of the Berber press.

28. On the subject of Moroccan names, the information quoted by Mr. Yutzis was not entirely accurate. The only restriction on the choice of names was that they must be authentically Moroccan. Berber names, which had their roots in Moroccan history and culture, could certainly be used. In fact, Berber names were extremely popular, possibly because they were short and convenient to use on credit cards and the like. Books of Berber names had even been published. The aim of the restrictions was to discourage the use of foreign names, particularly those of Western origin.

29. As far as the dissemination of information was concerned, it was worth noting that representatives of the Moroccan press were following the delegation's dialogue with the Committee closely and had already passed on the information to press agencies in Morocco, reaching out to more than 400 publications. In addition, the Government would take steps to ensure that more specialist reviews and associations had access to the report and the Committee's comments on it.

30. Qualifying earlier remarks on racial discrimination, he pointed out that what had actually been said was that no cases of racial discrimination had thus far been recorded.

31. The specific question of the Berbers in Morocco required further clarification. No one could deny the different ethnic origins of the country's population, but apart possibly from some of the more remote mountainous regions where there had been no intermingling of the different ethnic groups, it was difficult nowadays to distinguish Berbers from Arabs. It was rather like asking how many Celts lived in France or how many Anglo-Saxons there were in England. Although ethnologists, geographers and historians had popularized the term "Berber" to describe those population groups found on the territory between the Atlantic and Egypt, and the Mediterranean and Niger, who spoke non-Arab dialects such as Tachelhit, Tarifhit and Tamazight, politically speaking such a distinction was meaningless in present-day Morocco, and all Moroccans shared a common Arab and Berber cultural heritage. Morocco was in fact as much an Arabized Berber nation as it was a Berberized Arab nation. While all schoolchildren were still taught that the Berbers were the first inhabitants of North Africa, it should be noted that the earliest Arab invasion of the Maghreb dated back to the seventh century and thereafter the territory had been successively ruled over by different dynasties of Berber and Arab extraction, during which time the Berbers had been "Arabized" and the Arabs had been "Berberized", not by force but by inclination. By way of example it was converted Berbers that had been largely responsible for the spread of Islam in Morocco. The consequent melting pot of races and cultures over the centuries had resulted in the Moorish people specific to Morocco, generally defined as Arabo-Berber. By the same token it was difficult to ascertain whether some Moroccans had originally been Jewish or Muslim, since many had family names common to both those religions, with a slight difference in spelling.

32. The Government of Morocco would pay heed to the Committee's comments concerning the need for appropriate legislation so as to be in conformity with article 4 of the Convention. The situation would be remedied with the future reform of the Criminal Code. However, he could not promise that the Government could produce the type of demographic information sought by the Committee, and conduct a census which created artificial ethnic and racial divisions.

33. Mr. de GOUTTES (Country Rapporteur) said that the dialogue with the Moroccan delegation testified to the spirit of openness of Morocco's new Government, not to mention its attention to human rights issues, probably owing to the fact that several Cabinet ministers were former human rights activists. The Committee had certainly enjoyed a much better dialogue with the delegation than in the past and the oral replies had helped iron out a number of problems concerning information contained in the report. The delegation had provided comprehensive and up-to-date information on political, judicial and prison reform, the situation in the Western Sahara, measures to promote Berber language and culture and efforts towards better liaison with NGOs.

34. Nonetheless, some problems and differences of opinion remained. The delegation's explanation of why the census did not include any ethnic breakdown of the population had failed to satisfy the Committee, particularly since it was not in line with General Recommendation IV or the Committee's guidelines on the preparation of reports (para. 8).

35. Similarly, Morocco was urged to bring its criminal legislation into line with the provisions of article 4. The Committee could not accept the argument that since there were no cases of racial discrimination, such legislation was not necessary, although it was encouraged by the news that efforts would be made to harmonize the legislation in the forthcoming reform of the Criminal Code.

36. Another area in which improvements could be made was that of sentencing and convictions. He stressed that the possibility for victims to seek compensation for wrongful convictions was a touchstone of the Convention.

37. Lastly, the next periodic report should contain more ample information on economic and social indicators and possible discrimination against certain groups such as Blacks and nomads. The Committee was optimistic that such improvements would be made in the future and described in detail in the next report.

38. The CHAIRMAN expressed appreciation to the delegation for an extremely interesting exchange of views, which the Committee hoped to resume in future.

39. The delegation of Morocco withdrew.

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 9) (continued) (E/CN.4/1998/77; E/CN.4/1998/79)

40. Mr. BANTON, referring to the report of the Secretary-General on racism, racial discrimination, xenophobia and related intolerance (E/CN.4/1998/77),

drew attention to part IV, section B entitled "Department of Public Information". Committee members who frequently complained that the Department of Public Information (DPI) made little effort to publicize the Committee's work on racial discrimination would no doubt be interested in the 20 or so paragraphs which DPI had produced on the subject. According to paragraph 18 of section B, the Department was currently preparing a background article on racism and its consequences. Perhaps the Committee might wish to inform DPI that, while it welcomed its efforts, an article stressing the positive achievements in implementing the Convention might be more useful.

41. Paragraph 3 of part IV, section C of the report referred to a meeting in 1996 which he, as the Chairman of the Committee at that time, had attended. He was, therefore, well aware that the statement that "those participants did not consider that the International Convention on the Elimination of All Forms of Racial Discrimination gave any scope to the Committee to pay attention to issues confronting women from racial minorities" was both untrue and an inaccurate account of what had been discussed at the meeting.

42. During consideration of the first communication the Committee had ever dealt with under article 14 of the Convention (1/1984), on the complaint submitted by Mrs. Yilmaz-Dogan, it had been clear that the contract of employment might have been terminated because she had been pregnant, in which case it had nothing to do with the Committee's mandate, or that there might have been a racial element, in which case it came within the competence of the Committee. The Committee had proceeded accordingly. Following that case, he had submitted a paper pointing out that women were sometimes doubly disadvantaged by their sex and their ethnic origin and that it was up to the Committee only to deal with the question of discrimination against women on the basis of their ethnic or racial origin. A copy of the relevant summary record should be sent to the Office of the United Nations Special Adviser on Gender Issues and Advancement of Women and its attention drawn to the error so that aspersions on the work of the Committee could not be cast again.

43. The second report before the Committee was by the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance (E/CN.4/1998/79). Following the fifty-first session, he had, as instructed by the Committee, sent a letter to the Special Rapporteur expressing the Committee's regret that he had not used the information it had provided on issues that were of relevance to his mandate. No reply had been received. Paragraph 26 of the report referred to the Committee's annual report but did not give any details of or even mention the work or concluding observations of the Committee.

44. Mr. van BOVEN said that he was pleased that Mr. Banton had clearly stated for the record that the remarks in paragraph 3 of part IV, section C, of the report of the Secretary-General (E/CN.4/1998/77) did not accurately reflect the position put forward at the meeting. The Committee was well aware of the fact that women sometimes faced discrimination on grounds of gender and racial or ethnic origin, of the difficulties involved in separating the two issues in many cases, and above all of its mandate under the Convention.

45. It was regrettable that material provided to the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related

Intolerance and approaches made to him did not seem to have elicited any form of response, and that there was a clear lack of coordination on issues that were related and complementary. It would be interesting to see if the inter-branch Racism Project Team, which had been set up in March 1998, would improve the situation.

46. The CHAIRMAN proposed that Mr. Banton should be given the responsibility of liaising with the Commission on Human Rights.

47. It was so decided.

48. Mr. GARVALOV said that paragraph 3 of part IV, section C of the report of the Secretary-General was an insult to the work of the Committee and was totally unacceptable. In the course of considering reports of States parties, the Committee had looked at women's issues time and again, in the context of the Convention.

49. It was a mystery why there was so little cooperation between the Special Rapporteur and the Committee when much of his work concerned issues already dealt with extremely thoroughly by the Committee and their mandates so clearly overlapped. That was clear from the contents page of his report (E/CN.4/1998/79) which, inter alia, had sections on discrimination against Blacks, the Roma, Gypsies or travellers, Arabs and Muslims and the problem of incitement to racial hatred over the Internet, all issues frequently discussed by the Committee when considering reports of States parties. The Committee should appeal to the Commission on Human Rights to ensure close contact between the Special Rapporteur and the Committee, particularly in view of the forthcoming World Conference against Racism and Racial Discrimination, Xenophobia and Related Intolerance.

50. The CHAIRMAN said that one of the main problems was that the Committee no longer had an intermediary to whom it could address its concerns and comments and thus pre-empt the kind of mistake found in the report of the Secretary-General (E/CN.4/1998/77). The problem of the lack of contact with and between the different parts of the Secretariat could be raised with the High Commissioner for Human Rights.

51. Mrs. SADIQ ALI said that, as far as she remembered, the Committee had been told that it should not raise women's issues.

52. The CHAIRMAN said that when the question was one of discrimination against women on racial or ethnic grounds, the Committee was clearly competent to raise the matter with States parties.

53. Ms. McDOUGALL said that she felt that a general recommendation on women's issues in the context of the Convention would help guide the work of the Committee and be useful for States parties. She would be happy to draft such a recommendation, together with a male colleague on the Committee.

54. The CHAIRMAN suggested that a letter might be more appropriate.

55. Ms. McDOUGALL said that a letter should be written in addition to the general recommendation.

56. Mr. SHAHI said that a general recommendation would help dispel any misconceptions about the work of the Committee. It was unfortunate that the Special Rapporteur paid little attention to the work of the Committee. However, unlike the Special Rapporteur's thematic studies on topics, the Committee dealt with issues of common interest in the context of reports of States parties, making it difficult for the Special Rapporteur to sift through each and every report to find out what the Committee had said.

57. Mr. van BOVEN said that he hoped that the draft general recommendation would be ready for the Committee to discuss and adopt at the fifty-fourth session.

58. Mr. VALENCIA RODRIGUEZ said that the gender perspective had permeated the work of the United Nations and its various agencies and bodies to the point that if it was not openly referred to in a body's guidelines or work it was assumed that that particular agency or body was opposed to its promotion. He had heard comments, off the record, even from members of the Third Committee of the General Assembly, to the effect that, by omission, the Committee was not in favour of promoting the gender perspective. A general recommendation would go some way toward dispelling that notion.

59. The CHAIRMAN said that he took it that the Committee was in favour of a general recommendation on women's issues in the context of the Convention, to be drafted by Ms. McDougall and discussed at the fifty-fourth session.

60. It was so agreed.

61. Mr. GARVALOV observed that the issues he had mentioned that were dealt with by the Special Rapporteur in his report were not the subject of thematic studies. The Special Rapporteur was merely setting out "the most salient facts" that had come to his notice. However, there was an error in paragraph 46 of the report where he equated the demonstration of 2,000 Roma with a protest against discriminatory practices. The demonstration in question, on 4 February 1997, had been attended by many Bulgarians to try and force the Government to resign. The increase in the price of bread had affected everyone in the country, not just the Roma.

62. Mr. BANTON suggested that the Committee should address a letter regarding the error in the Secretary-General's report to the Department of Public Information and to the United Nations Special Adviser on Gender Issues and Advancement of Women.

63. The CHAIRMAN proposed that Mr. Banton should draft and send the letters.

64. It was so decided.

The meeting rose at 1 p.m.